

BILL NO. 94 2010
AN ORDINANCE

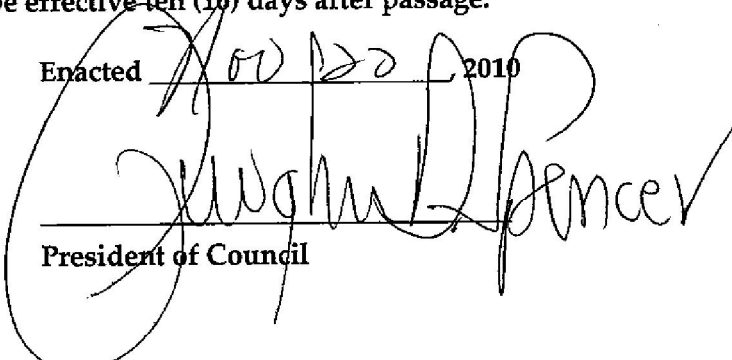
AMENDING THE CITY OF READING CODIFIED ORDINANCES CHAPTER 10 PART 19 BY CREATING A VENDING MACHINE SECTION WHICH ESTABLISHES A PERMIT, PERMIT FEE, INSPECTION, INSPECTION FEE AND PENALTIES FOR THE OPERATION OF ALL VENDING MACHINES IN THE CITY OF READING AND PROVIDING FOR AN APPEAL BOARD AND PROCEDURES, PENALTIES AS WELL AS RENUMBERING THE SECTIONS AS REQUIRED, AS ATTACHED IN EXHIBIT A.

Section 1. Amending the City of Reading Codified Ordinances Chapter 10 Part 19 by creating a vending machine section which establishes a permit, permit fee, inspection, inspection fee and penalties for the operation of all vending machines in the City of Reading and providing for an appeal board and procedures, penalties as well as renumbering the sections as required, as attached in Exhibit A.

Section 2. All other parts of the Ordinance remain unchanged.

Section 3. This Ordinance shall be effective ten (10) days after passage.

Enacted Nov 20 2010



President of Council

Attest:



City Clerk

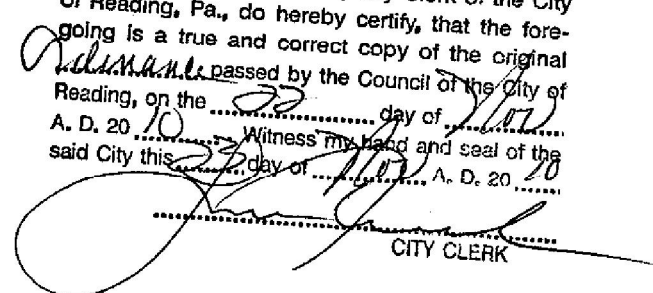
Date: 11/23/10

Received by the Mayor's Office: _____

Date: _____

Approved by Mayor: Red 11/23/10

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance passed by the Council of the City of Reading, on the 22 day of Nov A. D. 20 10. Witness my hand and seal of the said City this 23 day of Nov A. D. 20 10.



CITY CLERK

Date: _____

Vetoed by Mayor: _____

Date: _____

Chapter 10

Part 19

VENDING MACHINES

§10-1901. Purpose

The purpose of this Part is to provide for the regulation of vending machines in the City of Reading. The City of Reading has the responsibility to protect the public health and welfare of its residents and visitors. It is the finding of City Council that the regulation of vending machines is necessary to achieve this end.

§10-1902. Title

This part shall be known as the "Vending Machine Ordinance."

§10-1903. Interpretation

The provisions of this Part shall be construed to be the minimum requirements necessary to serve the general public health and welfare of the residents of and visitors to the City of Reading. Where the provisions of any statute, other ordinance or regulation impose greater restrictions or higher standards than those enumerated in this Part, the provisions of such statute, ordinance or regulation shall govern.

§10-1904. Definitions

For the purpose of this Part, certain terms shall be defined as follows:

OPERATOR means a person who manages a vending machine in the City of Reading.

PERMIT means the written authorization, issued by the City of Reading, to operate a vending machine within the City of Reading.

PROPERTY MAINTENANCE DIVISION means a division of the City of Reading administration under the Managing Director charged with enforcing the City of Reading Codified Ordinances governing issues including, but not limited to, housing, property maintenance and trade.

VENDING LICENSE BOARD OF APPEALS means the Board authorized to hear appeals of and render decisions in matters concerning aggrieved applicants whose vending permits have been denied, suspended, revoked or is not renewed pursuant to this Part.

VENDING MACHINE means any self-service device offered for public use which, upon insertion of a coin, coins or token, or by similar means, dispenses unit servings of food or beverage either in bulk or in package, without the necessity of replenishing the device between each vending operation.

VENDING MACHINE BANK means two or more vending machines on an account or at a given location.

VENDING MACHINE ENCLOSED means a vending machine located within a building.

VENDING MACHINE PUBLIC RIGHT OF WAY means a vending machine located in any approved location which is legally open to public use and is located on a public street, alley, sidewalk, and roadway.

§10-1905 Permit Required

A. No person shall operate one or more vending machines without a valid permit(s) issued by the Property Maintenance Division. Persons who do not comply with the requirements of this ordinance shall not be entitled to operate a vending machine in the City of Reading. The City of Reading is excluded from this Part. Permit(s) are not transferable.

B. The operator's company name and service telephone number shall be displayed on each vending machine or conspicuously adjacent to the vending machine bank.

C. All operators of vending machines shall:

1. Comply with the requirements of this ordinance;
2. Maintain at the operator's headquarters or at some other designated location a list of all vending machines operated by such operator within the jurisdiction and the complete address of each machine location or other establishments from which his/her machines are serviced. This information shall be available to the Property Maintenance Division upon request, and shall be kept current; and
3. Notify the Property Maintenance Division of any change in operations involving new types of vending machines or conversions of existing machines to dispense products other than those for which the machines were built.

§10-1906 Issuance of Permit(s)

A. Any person desiring to operate one or more vending machines shall make written application for a permit(s) on forms provided by the Property Maintenance Division that will include registration information on each vending machine to be located within the City of Reading.

B. Upon receipt of such application, the Property Maintenance Division shall make an inspection of the vending machine and equipment location to ensure that the vending machine and equipment location are compliant with all City of Reading Ordinances including the Health, Plumbing and Electrical Codes and Zoning Ordinance.

C. A numbered operator's permit(s) shall be issued to the applicant by the Property Maintenance Division after compliance by the Operator with the applicable provisions of this ordinance. The Property Maintenance Division will track the vending machines by using the operator's permit number.

D. All vending operation locations in the public right of way must be approved by the Property Maintenance Division.

E. Existing vending machine Operators shall register their current vending machines with the Property Maintenance Division for the 2011 permit year.

§10-1907 Permit Fees. The Operator shall submit an application and an annual permit fee to operate one or more vending machines. Every Operator requesting to have an enclosed vending machine or a vending machine bank shall pay an annual permit fee of \$12.00 per machine for the privilege of operating a vending machine. Every Operator requesting a vending machine on the public right of way shall pay an annual permit fee of \$20.00 for the privilege of operating a vending machine in the public right of way.

§10-1908 Permit Renewal and Expiration. All vending machine permits shall begin January 1st and expire on December 31st of each year. It shall be the responsibility of each vending machine Operator to see that his machine(s) is/are properly permitted by the Property Maintenance Division.

§10-1909 Suspension of Permit(s)

A. The Property Maintenance Division may, without prior warning, notice or hearing, suspend any permit(s) to engage in a vending operation if the operation constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by paragraph B. When any permit is suspended, vending operations shall immediately cease. Whenever any permit is suspended, the operator shall be afforded the opportunity for a hearing with the Vending License Board of Appeals within 20 days of receipt of a request for a hearing.

B. Whenever any permit is suspended, the operator shall be notified in writing that the permit(s) is, upon service of this notice, immediately suspended and that an opportunity for a hearing will be provided if a written request of a hearing is filed with the Vending License Board of Appeals by the operator within 5 days. If no request for hearing is filed within 5 days, the suspension is sustained. Prior to the hearing, the Property Maintenance Division may end the suspension if reasons for the suspension no longer exist.

C. A sustained suspension may be rescinded by the Vending License Board of Appeals after the Property Maintenance Division has confirmed by inspection that the requirements of this ordinance have been satisfied.

D. The Vending License Board of Appeals, in lieu of suspending any permit, may suspend applicability of the permit to a particular vending machine, machines or specific products.

§10-1910 Revocation of Permits. Prior to revocation, the Property Maintenance Division shall notify in writing the operator of the reasons for which the permit(s) is subject to revocation. Any permit may be revoked for serious or repeated violations of any of the items of this ordinance as delineated on the inspection report form or for interference with the Property Maintenance Division in the performance of its duties. The permit(s) shall be revoked at the end of 5 days following service of a revocation notice. Unless a request for a hearing is filed with the Property Maintenance Division by the operator within such a 5 day period, the revocation of the permit(s) becomes final.

§10-1911 Service of notices. A notice provided for in this ordinance is properly served when such notice is posted in a conspicuous place on the vending machine, posted on the property of which the vending machine is located, delivered to the operator or when it is sent by first class or certified mail, return receipt requested, to the last known address of the operator. A copy of any notice shall be filed in the records of the Property Maintenance Division.

§10-1912 Inspections

A. Inspection frequency. The Property Maintenance Division shall select a minimum of ten (10) machines or no more than 33.3% of an Operator's vending machines (to be identified by the Property Maintenance Division) located within the City of Reading for inspection.

B. Access for inspection. The Property Maintenance Division, after proper identification, shall be permitted to enter at any reasonable time and after reasonable notice, upon any private or public property where vending machines are operated, or from which such machines are otherwise serviced, for the purpose of determining compliance with the provisions of this ordinance. The operator shall make provision for the Property Maintenance Division to have access, either in company with an employee or otherwise, to the interior of all food vending machines operated by him.

C. Notification of inspection findings. Whenever an inspection of food vending machines is made, a copy of the completed inspection form set out in this Part shall be furnished to the operator. Whenever the Property Maintenance Division discovers a violation of any provision of this ordinance, it shall notify the operator concerned either by the inspection report form set out in this Part or by other written notice. Such form or notice, which is a public document shall:

1. Describe the condition found;
2. Provide a specific and reasonable period of time for the correction of the condition; and
3. State that an opportunity for a hearing on inspection findings will be provided if a written request for such hearing is filed with the Property Maintenance Division within 5 days of receipt of the notice. The Property Maintenance Division may also advise the operator in writing that unless the violations are corrected within the specified period of time, any permit issued under the provision of this ordinance may

be suspended or revoked in accordance with the provisions of this Part, or court action may be initiated.

D. Inspection fee. On the year of inspection, every operator shall pay an inspection fee of \$45.00 per machine for those machines that are inspected. The cost of inspection for a vending machine bank shall be \$45 plus \$10 for each additional machine located within the vending machine bank.

E. Report Forms. Inspection report forms will be provided by the Property Maintenance Division.

§10-1913 Penalty. Any person violating any provision of this Part or of the regulations promulgated hereunder, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of \$75 - \$1,000 for each and every offense, to be collected as other fines and costs are by law collectible, or shall be imprisoned for not more than 90 days or both. Each day during which the person violated any provision of this Part shall constitute a separate offense. Institution of a prosecution for the imposition of the foregoing penalty shall not be construed to limit or deny the right of the City to such equitable or other remedies as may be allowed by law.

§10-1914 Construction and Severability. In the event any provision, section, sentence, clause or part of this Part shall be held to be invalid, illegal or unconstitutional, such invalidity, illegality or unconstitutionality shall not affect or impair any remaining provision, section, sentence, clause or part of this Part, it being the intent of the Council of the City of Reading that such remainder shall remain in full force.

§10-1915 Enforcement. This Part will be enforced under the jurisdiction of the Property Maintenance Division.